CCRB INVESTIGATIVE RECOMMENDATION

Investigator:		Team:	CCRB Case #:	V	Force		Discourt.		U.S.
Raquel Velasquez		Squad #12	201701838		Abuse		O.L.	V	Injury
Incident Date(s)		Location of Incident:		P	recinct:	18	Mo. SOL]	EO SOL
Friday, 03/03/2017 1:15 AM		Saint George Ferry Terminal 120		120	9	0/3/2018	ç	9/3/2018	
Date/Time CV Reported		CV Reported At:	How CV Reported:		Date/Time	Rece	eived at CCI	RB	
Fri, 03/03/2017 4:10 AM		IAB	Phone		Thu, 03/09/2017 11:40 AM				
Complainant/Victim	Type	Home Addre	ss						
Subject Officer(s)	Shield	TaxID	Command						
1. POM Stephen Machicote	30062	954084	PBSI						
2. SGT Stephen Viani	01812	926257	PBSI						
Witness Officer(s)	Shield N	o Tax No	Cmd Name						
1. POF Michelle Abraham	01124	960121	122 PCT						
Officer(s)	Allegation Investigator Recommendation								
A.POM Stephen Machicote	Force: Police Officer Stephen Machicote used physical force against § 87(2)(b)								
B.POM Stephen Machicote	Force: Police Officer Stephen Machicote restricted \$87(2) s breathing.								
C.SGT Stephen Viani	Force: Sergeant Stephen Viani restricted steph								

Case Summary

On March 3, 2017, Captain Anthony Bentivegna called IAB and reported a prisoner injury. The complaint was referred to the CCRB and was received on March 9, 2017.

On March 3, 2017, at approximately 1:15 a.m., PO Stephen Machicote and PO Michelle Abraham, from Patrol Borough Staten Island's Ferry Unit, approached \$87(2)(5) who was at a Subway within the St. George Ferry Terminal in Staten Island, and instructed him to leave the terminal. PO Machicote pushed \$87(2)(5) multiple times in the chest, struck him multiple times in the face, and then brought him to the floor (Allegation A: Force,

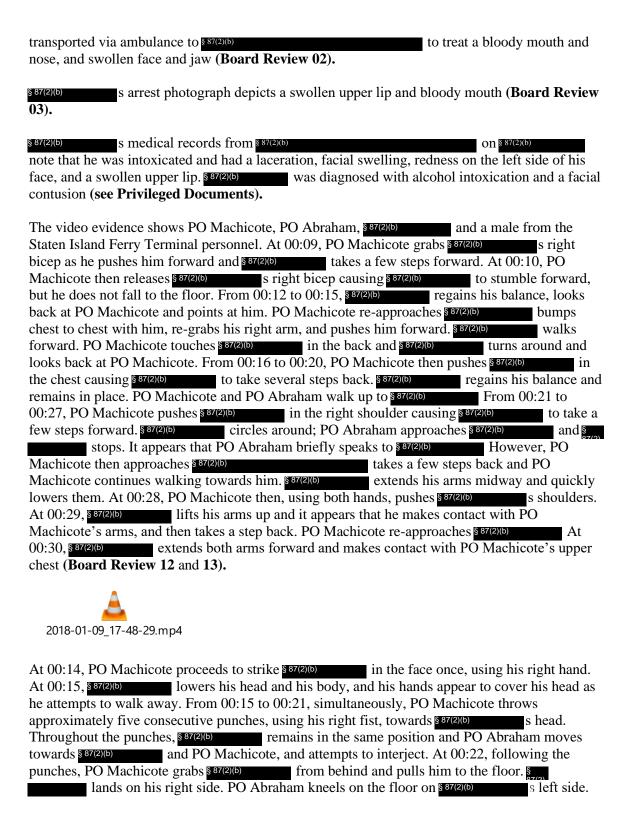
887(2)(5) and arrested him for assault in the second degree (Board Review 01). Sergeant Stephen Viani, also from Patrol Borough Staten Island's Ferry Unit, arrived at the scene and verified \$87(2)(5) s arrest. \$87(2)(5) remained lying on his stomach for approximately twenty minutes while handcuffed until he was transported to the hospital. While \$87(2)(5) lay on his stomach, Sgt. Viani placed his knee on \$87(2)(5) s back (Allegation B, C: Force [restricted breathing], \$87(2)(5)

Video footage of this incident was obtained from surveillance cameras at the St. George Ferry Terminal in Staten Island. The video does not have audio (**Board Review 12, 13, 14, and 15**).

Findings and Recommendations

Allegation A: Force- Police Officer Stephen Machicote used physical force against \$37(2)(b)

It is undisputed that \$87(2)(b) was intoxicated and consuming alcohol at the ferry terminal. It
is also undisputed that PO Machicote pushed \$87(2)(b) multiple times in the chest and
punched § 87(2)(b) multiple times in the face.
stated that he had been at the ferry terminal for approximately one to two hours
walking around and consuming four cans of "Four Lokos." During that same time frame, PO
Machicote told \$87(2)(b) three to four times that he could not stay in one place and that he
had to move. §87(2)(b) complied each time. PO Machicote did not say anything else to
then sat inside Subway and consumed one of the beer cans, and spoke
to two unknown individuals inside Subway. He was not told to leave. Approximately ten minutes
later, §87(2)(b) saw PO Machicote approaching so he got up to walk away. PO Machicote
asked \$87(2)(b) for the beer can and \$87(2)(b) said no. PO Machicote took the beer can
away from \$87(2)(b) s grip and poured it on the floor. \$87(2)(b) walked away. PO
Machicote re-approached \$87(2)(b) put his chest up against \$87(2)(b) s chest, and said,
"Do something. What are you gonna do?" \$87(2)(b) moved back and replied, "Nothing. I'm
gonna take my ticket and walk away, and get another beer." §87(2)(b) believed that he was
going to be issued a summons for the open container. PO Machicote then punched §87(2)(b)
in the left jaw with his right fist. §87(2)(b) ducked afterwards. PO Machicote then punched
in the back right side of his head with his left fist. §87(2)(b) placed his hands
up to block further strikes. §87(2)(b) did not recall pushing PO Machicote, but it is possible
that he made contact with PO Machicote when he placed his hands up to cover himself. He did
not punch PO Machicote. PO Machicote and PO Abraham then grabbed \$87(2)(b) by his
arms and threw him on the floor. §87(2)(b) landed on his chest. PO Machicote and PO
Abraham handcuffed \$87(2)(b) without any struggle. \$87(2)(b) was eventually
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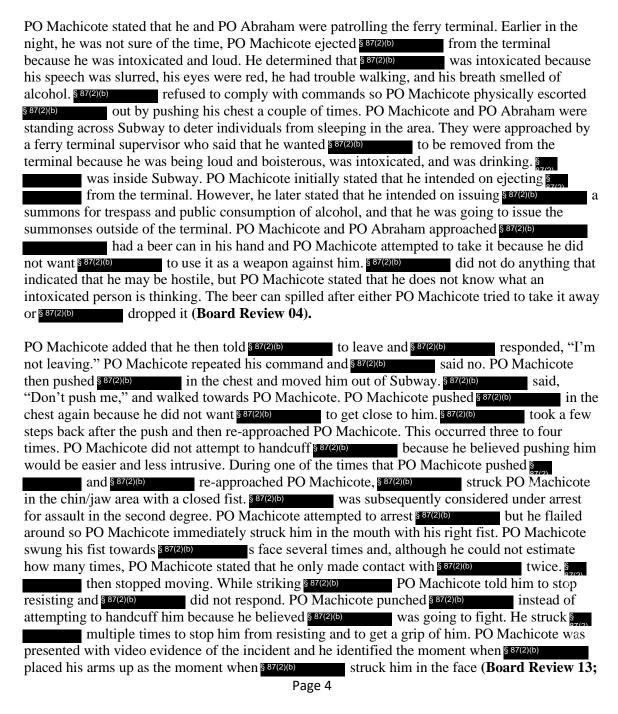


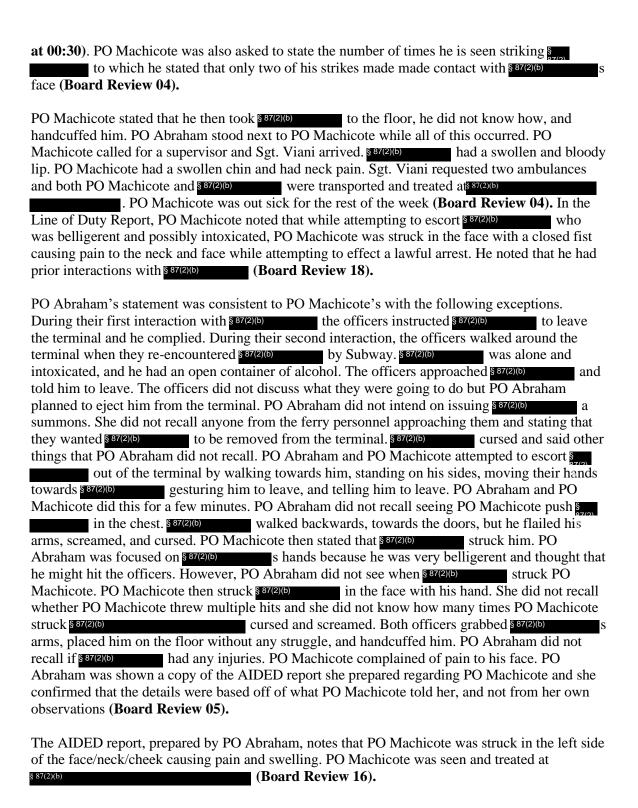
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PO Machicote kneels on the floor on \$87(2)(6) s right side. Both officers quickly place on his chest and appear to handcuff him within seconds (**Board Review 12** and **14**).



2018-01-09 17-52-15.mp²





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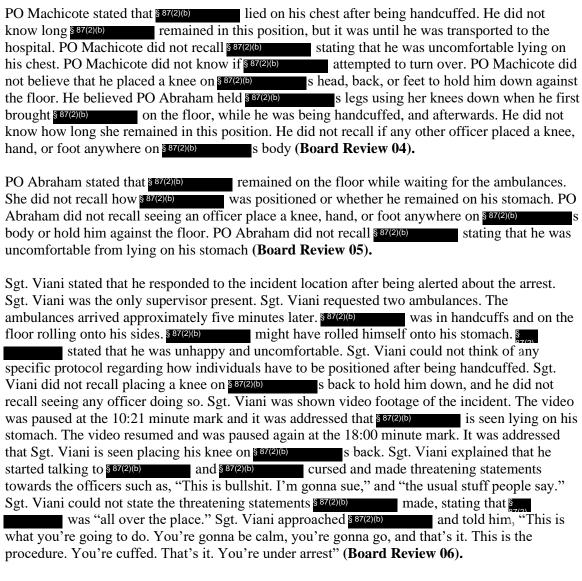
In the Witness Statement-Injury to Member of the Department form, PO Abraham noted that she and PO Machicote encountered \$87(2)(b) who was intoxicated and with an open container. After repeatedly asking \$87(2)(b) to leave the ferry terminal, \$87(2)(b) became combative. While attempting to physically remove \$87(2)(b) from the terminal, PO Machicote stated that \$87(2)(b) struck him in the face. While attempting to take \$87(2)(b) in the face (Board Review 17).
§ 87(2)(b), § 87(2)(g)
<u>Patrol Guide Procedure 221-02</u> states that an officer may apply no more than the reasonable force necessary to gain control of an arrestee (Board Review 07).
§ 87(2)(b), § 87(2)(g)
•
Allegation B: Force- Police Officer Stephen Machicote restricted Set (2)(b) Set
The video evidence, which is approximately twenty-six minutes long, shows that throughout that time period, \$\frac{837(2)(0)}{2}\$ lied on his stomach and attempted to turn onto his sides several times. At approximately 14:50, \$\frac{837(2)(0)}{2}\$ is still lying on his stomach. There are approximately six uniformed officers standing around, including PO Machicote and Sgt. Viani. \$\frac{837(2)(0)}{2}\$ turns on his left side and Sgt. Viani, who is standing in front of \$\frac{837(2)(0)}{2}\$ circles around and walks behind \$\frac{837(2)(0)}{2}\$ rolls on his stomach and turns on his right shoulder. Sgt. Viani and \$\frac{837(2)(0)}{2}\$ appear to speak with each other. At approximately 15:10, Sgt. Viani begins circling back around to \$\frac{837(2)(0)}{2}\$ s right side. \$\frac{837(2)(0)}{2}\$ remains leaning on his right side so his back is towards Sgt. Viani. At approximately 15:19, Sgt. Viani extends his left foot and touches \$\frac{837(2)(0)}{2}\$ s back. Sgt. Viani removes his foot from \$\frac{837(2)(0)}{2}\$ s back, leans down, and pushes \$\frac{837(2)(0)}{2}\$ s left shoulder forward. However, he then removes his hands and, at approximately 15:22, Sgt. Viani leans his left knee on \$\frac{837(2)(0)}{2}\$ s back. At
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approximately 15:27, Sgt. Viani removes his knee from §87(2)(b) s back and stands up (Board Review 12 and 15).



2017-03-24 10-59-53.mp4



<u>Patrol Guide Procedure 221-02</u> states that, after handcuffing a person and as soon as safety permits, an officer must position the person to promote free breathing by sitting the person up or turning the person onto his side. The patrol guide also notes that an officer may apply no more than the reasonable force necessary to gain control (**Board Review 07 and Board Review 08**).

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§ 87(2)(b), § 87(2)(g)			
This is § 87(2)(b)		and Officer CCRB Histories mplaint (Board Review 09).	·
This is the first service for fiveThis is the thin	t CCRB complaint filed e years (see officer histored CCRB complaint filed renteen years. None of the	against PO Machicote and he has been	member of
• This case was • § 87(2)(b) • § 87(2)(b)	not suitable for mediation	Civil and Criminal Histories on. Claim regarding this incident (Board	Review 10).
Squad No.: 12			
Investigator:	Signature	Print Title & Name	Date
Squad Leader:	Signature	Print Title & Name	Date
Reviewer:			

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Print Title & Name

Date

Signature